

ESTTA Tracking number: **ESTTA619097**

Filing date: **08/01/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91203277
Party	Defendant Palm Beach Motoring Accessories, Inc.
Correspondence Address	LEO ZUCKER LAW OFFICE OF LEO ZUCKER 2591 DUNNING DRIVE, PO BOX 1177 YORKTOWN HEIGHTS, NY 10598 8177 UNITED STATES lzpatents@gmail.com
Submission	Motion to Suspend for Settlement Discussions
Filer's Name	Leo Zucker
Filer's e-mail	lzpatents@gmail.com
Signature	/Leo_Zucker/
Date	08/01/2014
Attachments	PBMA_suspend_motion.pdf(43781 bytes) Zucker_decl_mot_suspend.pdf(1114319 bytes) mot_suspend_exh_A.pdf(304631 bytes) mot_suspend_exh_B.pdf(304646 bytes) mot_suspend_exh_C.pdf(304601 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Trademark Trial and Appeal Board

3D International, LLC,)	
a California Limited Liability Company,)	
)	
Opposer,)	Opposition Nos. 91203277 (parent)
)	91203279
v.)	
)	Application No. 85-261,047
)	Mark: AUTOPIA FORUM, in Class 38
Palm Beach Motoring Accessories, Inc.,)	
a Florida Corporation,)	Application No. 85-312,684
)	Mark: AUTOPIAFORUMS, in Class 38
Applicant.)	

**MOTION TO SUSPEND PROCEEDINGS INCLUDING OPPOSER'S PENDING
MOTION TO COMPEL**

TO: Trademark Trial & Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Thomas W. Cook, Esq.,
Thomas Cook Intellectual Properties
3030 Bridgeway, Suite 425
Sausalito, CA 94965

Law Office of Leo Zucker
Attorney for Applicant
P.O. Box 1177
Yorktown Heights, NY 10598

Telephone: (914) 302-2460

August 1, 2014

Applicant, Palm Beach Motoring Accessories, Inc., by its undersigned attorney, hereby moves under Rule 2.117(c) of the Trademark Rules of Practice to suspend the present consolidated proceedings, including opposer's pending motion to compel filed July 22, 2014, for a period of six months.

The reason for the requested suspension is that the parties have begun serious settlement negotiations. See the accompanying Declaration of applicant's attorney and exhibits. It is contemplated that the terms of the settlement will be embodied in a formal written agreement, and that the proceedings will be dismissed voluntarily by the parties, before the suspension period expires.

Applicant believes the foregoing constitutes good cause for fully suspending the proceedings in contemplation of settlement. Accordingly, applicant respectfully requests favorable consideration and that the present motion be granted.

Respectfully submitted,

/Leo Zucker/

Leo Zucker, Attorney for Applicant
Palm Beach Motoring Accessories, Inc.

August 1, 2014

CERTIFICATE OF SERVICE

I hereby certify that the within MOTION TO SUSPEND PROCEEDINGS INCLUDING OPPOSER'S PENDING MOTION TO COMPEL and accompanying papers were served upon Opposer 3D International, LLC, by depositing same with the U.S. Postal Service as first class mail in a sealed envelope, postage prepaid, and addressed to:

Thomas W. Cook, Esq.,
Attorney for 3D International, LLC
3030 Bridgeway, Suite 425
Sausalito, CA 94965

on August 1, 2014.

/Leo Zucker/
Leo Zucker, Attorney for Applicant
Palm Beach Motoring Accessories, Inc.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Trademark Trial and Appeal Board

3D International, LLC,)
a California Limited Liability Company,)

Opposer,)

v.)

Palm Beach Motoring Accessories, Inc.,)
a Florida Corporation,)

Applicant.)

Opposition Nos. **91203277 (parent)**
91203279

Application No. 85-261,047
Mark: AUTOPIA FORUM, in Class 38

Application No. 85-312,684
Mark: AUTOPIAFORUMS, in Class 38

DECLARATION OF LEO ZUCKER UNDER 37 C.F.R. § 2.20

TO: Trademark Trial & Appeal Board
Commissioner for Trademarks
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Alexandria, VA 22313-1451

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Telephone: (914) 302-2460

August 1, 2014

LEO ZUCKER, hereby deposes and states as follows:

1. I am over 18 years of age, and I have personal knowledge of all matters set forth below.

2. I am an attorney at law, admitted to practice in the Courts of the State of New York and before the United States Patent and Trademark Office. I represent the applicant Palm Beach Motoring Accessories, Inc. (PBMA) in the present consolidated opposition proceedings.

3. I make this declaration in support of PBMA's present motion to suspend these proceedings pending the conclusion of settlement negotiations between the parties, pursuant to 37 C.F.R. § 2.117(c).

4. As presently advised and at least as early as July 9, 2014, persons with appropriate authority at PBMA have been and continue to be in direct contact with opposer's (3D's) CEO, and terms for settling the present opposition proceedings are being negotiated in good faith to date.

5. On July 22, 2014, I sent an email, annexed hereto as Exhibit A, to 3D's counsel. The email asks for 3D's consent to a motion to suspend the present

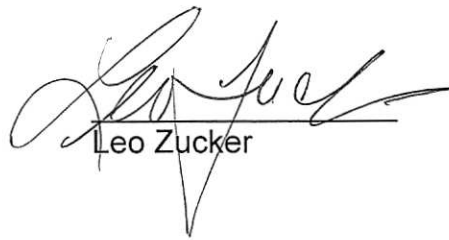
proceedings in view of the settlement discussions taking place between the parties. A draft of a proposed motion was attached to the email for consideration by 3D's counsel.

6. On the same day, July 22, 2014, I noticed that 3D's pending motion to compel was entered in the file of these proceedings as made available online by the TTAB.

7. On July 24, 2014, I sent an email to 3D's counsel, asking him to confirm his awareness of the parties' direct negotiations for settlement, and his receipt on July 22 of PBMA's proposed motion to suspend. A copy of the email is annexed as Exhibit B. On the same day, 3D's counsel confirmed via email (Exhibit C) that he was aware of the direct negotiations, and that he received an outline of some terms to be reviewed by him and forwarded to PBMA as an offer. Counsel also stated that 3D's pending motion to compel was filed *before* he received my email of July 22.

8. As presently advised, the parties are continuing to negotiate directly with one another toward a written settlement agreement which, when executed, will allow the present proceedings to be dismissed voluntarily by the parties.

9. I further declare that all statements made of my own knowledge are true, and all statements made on information and belief are believed to be true, and that I have been warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the opposed applications or documents or any registrations resulting therefrom.



Leo Zucker

August 1, 2014

Leo Zucker

From: Leo Zucker [lzpatents@gmail.com]
Sent: Tuesday, July 22, 2014 3:40 PM
To: 'tom@thomascooklaw.com'
Subject: 3D v. PBMA "Autopia" oppositions
Attachments: PBMA_motion_suspend_A.pdf

Thomas,

PBMA will file the attached motion as soon as I receive your consent.

Regards,
Leo

-----Original Message-----

From: Thomas Cook [mailto:tom@thomascooklaw.com]
Sent: Tuesday, July 15, 2014 7:01 PM
To: Leo Zucker
Subject: Re: 3D v. PBMA "Autopia" oppositions

Leo:

Again to be clear, 3D does not have time for you to "get back to us shortly," or "see how it goes," or "check again with PBMA," on our simple request to reset trial dates while your client dithers.

I ask again that you agree to some arrangement for additional time.

Regards,

Thomas.

-
--

Thomas Cook Intellectual Property Attorneys P.O. Box 1989, 3030 Bridgeway, Suite 425-430 Sausalito, California 94965-1989
Telephone: 415-339-8550

Leo Zucker

From: Leo Zucker [lzpatents@gmail.com]
Sent: Thursday, July 24, 2014 1:27 PM
To: 'tom@thomascooklaw.com'
Subject: 3D v. PBMA "Autopia" oppositions
Importance: High

Thomas,

I understand you know that the above parties have been negotiating directly with one another for a settlement, and that they are making progress toward a final agreement. I also understand you received our draft consent motion to suspend the proceedings in contemplation of settlement on the same day (July 22) you filed 3D's motion to compel responses to 3D's last admissions requests. Please confirm.

I was also advised you were going to file on July 23 for an extension of the present trial schedule, but I did not see an entry for an extension request at the TTAB website as of today. Would you therefore please let me know if and when you will be filing for an extension. Also, please let me know whether or not 3D intends to withdraw its pending motion to compel.

Thank you for your attention to these matters.

Best regards,
Leo

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EXHIBIT B 1/1

Leo Zucker

From: Thomas Cook [tom@thomascooklaw.com]
Sent: Thursday, July 24, 2014 7:58 PM
To: Leo Zucker
Subject: Re: 3D v. PBMA "Autopia" oppositions

Leo:

Yes, I have received word that the parties have been negotiating directly for a settlement. I have also now received a communication from 3D which roughly outline some terms. We are due to "flesh out" those terms, and forward them as an offer, and I anticipate we may be able to provide PBMA with that offer tomorrow.

As to our Motion to Compel, I confirm it was filed July 22, at 10:51 am, just after we served a copy by regular mail. I received your July 22 email, with PBMA's proposed motion to suspend, sometime later, when I opened email in the early afternoon. I note that your email appears to have been sent at 12:40 on July 22, about two hours after we filed our Motion to Compel.

I would be interested in knowing who advised you we were going to file for an extension of the present trial schedule on July 23. You and I have had no discussion about this prior to your email today, and your July 22 email with proposed motion to suspend is the first communication we have had on this subject. I also have had no discussion with 3D about extensions or suspensions.

I will try to get back to you on all these issues tomorrow, after I have discussed them again with 3D.

Best regards,

Thomas.

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--

Thomas Cook Intellectual Property Attorneys P.O. Box 1989, 3030 Bridgeway, Suite 425-430 Sausalito, California 94965-1989
Telephone: 415-339-8550

On 7/24/2014 10:26 AM, Leo Zucker wrote:

>
> Thomas,
>
> I understand you know that the above parties have been negotiating
> directly with one another for a settlement, and that they are making
> progress toward a final agreement. I also understand you received our
> draft consent motion to suspend the proceedings in contemplation of
> settlement on the same day (July 22) you filed 3D's motion to compel responses to 3D's last admissions requests. Please confirm.
>
> I was also advised you were going to file on July 23 for an extension
> of the present trial schedule, but I did not see an entry for an
> extension request at the TTAB website as of today. Would you therefore
> please let me know if and when you will be filing for an extension.

EXHIBIT C 1/1